IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO(MVA) No. 492 of 2000.

Decided on : 17.11.2006.

Smt. Nirmala Devi & ors. **…..Appellants.**

VERSUS

Sukinder Parkash Sharma & anr. **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant : **Mr. Ajay Sharma, Advocate.**

For the Respondents : **Mr. K.D.Sood,Advocate with Ms. Sunita Sharma & Mr. Sanjeev Sood, Advocates, for respondent No.2.**

Surjit Singh, Judge (Oral).

Heard and gone through the record.

2. This appeal is filed by the claimants, whose petition, under Section 166 of the Motor Vehicles Act, which they filed, seeking award of compensation for the death of the bread earner of their family, namely Parkash Chand in an accident of scooter No. PAO - 1444, has been dismissed.

3. At the time of occurrence of the accident as per the allegations of the claimants, scooter was being driven by Sukinder Parkash Sharma, respondent No. 1, and it was insured with

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Whether the reporters of the local papers may be allowed to see the Judgment?

respondent No.2, New India Assurance Company Ltd. However, the owner of the scooter was the deceased himself.

4. The Tribunal has dismissed the claim petition holding that the allegation of rash or negligent driving of the scooter is not proved.

5. May be that the finding of the Tribunal that the driver of the scooter was not guilty of rashness or negligent driving is contrary to the evidence on record, yet there is another important aspect of the matter, which stands in the way of the claimants in succeeding. The same is that the deceased himself was the owner of the scooter. That means, he was not a third party. The insurance policy was only an `Act policy', meaning thereby that it covered the risk of third party only and not that of the owner of the vehicle himself. Therefore, the appeal is dismissed.

November 17, 2006. **(Surjit Singh)**
(*Hem*) **Judge.**